

May 24, 2010

sent via electronic submission

The Council on Environmental Quality
Attn: Ted Boling
722 Jackson Place NW
Washington, DC 20503

RE: Draft Guidance Establishing and Applying Categorical Exclusions Under the National Environmental Policy Act (75 Fed. Reg. 8045, February 23, 2010)

Dear Mr. Boling:

American Whitewater appreciates the opportunity to comment on the Draft Guidance Establishing and Applying Categorical Exclusions Under the National Environmental Policy Act. We support the proposed guidance but provide specific suggestions outlined below.

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954. We have over 6,000 members and 100 local-based affiliate clubs, representing approximately 80,000 whitewater paddlers across the nation. American Whitewater's mission is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. As a conservation-oriented paddling organization, American Whitewater is an active participant in river and land management actions that are reviewed under the National Environmental Policy Act (NEPA). The application of Categorical Exclusions has important implications for analysis of proposed federal actions that impact members of the public who enjoy the recreational opportunities our nation's rivers provide.

We concur that Categorical Exclusions represent an appropriate mechanism to efficiently conduct environmental review of projects that do not require more resource-intensive Environmental Assessments or Environmental Impact Statements. A need exists however for greater transparency and publically accessible documentation of the decision process.

1) We fully support web-based access to all supporting information, evaluation, and findings to achieve the goal of enhancing transparency in decision making. The draft guidance recommends doing this "whenever practicable" and we would like to see this strengthened. We concur that doing so will minimize the need for Freedom of Information Act Requests through a more open process that will save significant resources for the public and agency staff.

2) We fully support provisions that encourage public involvement. With reference to focus groups or locally-based stakeholder processes we feel it is important that these approaches are not done at the expense of opportunities for meaningful feedback from a wider geographic area. Our members travel 100's of miles to engage in whitewater

recreation and there are many cases where individuals wish to have meaningful input on projects where they can not realistically participate in a locally-based stakeholder process. We are aware of concerns that have been raised regarding the fact that enhanced public participation could result in an open-ended process with multiple rounds of comment. We do not support the development of such an open-ended process and believe the focus for Categorical Exclusions should appropriately remain as an efficient environmental review of projects that do not require more resource-intensive analysis. We believe efficiency can be improved by making the decision process more transparent resulting in fewer questions and uncertainty from the public.

3) The Draft Guidance “encourages” a process where the public is engaged in some way before using a Categorical Exclusion. We believe this language should be strengthened as public engagement through scoping is essential to a transparent environmental review process. We have had a positive experience with many National Forests across the country where the public is informed of proposed actions considered appropriate for Categorical Exclusions through scoping. After a short scoping period the project can proceed through a Categorical Exclusion or in those cases where issues are raised requiring additional analysis, an Environmental Assessment may be considered. This process could be improved by posting all scoping comments and any evaluation in a web-based format that is easily accessible. Agencies should use push-based web technologies to engage the public and make it easy for individuals to learn about upcoming projects considered for Categorical Exclusions.

4) We have concerns with inadequate procedures for recording, retrieving, and preserving agency documents. Too often project analysis documents, records of public comment, and additional supporting information are lost with staff turnover or poorly organized filing systems. We refer you to the eLibrary that the Federal Energy Regulatory Commission uses to archive information for projects. While the filing system does take time to learn and could be improved it provides a working example of a federal agency that has successfully implemented a system that allows the public to access and retrieve project documents.

Thank you for the opportunity to provide comment on the Draft Guidance. We would welcome the opportunity to further discuss or elaborate on any of our suggestions to improve the Draft Guidance that we regard as an excellent step towards improving public transparency in agency decision making.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. O'Keefe', with a stylized flourish at the end.

Thomas O'Keefe, PhD
Pacific Northwest Stewardship Director